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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/674,852 | 09/29/2003 | Lea Antony Ashfield | 014A.0020.U1(US) | 6316 |
| 29683 | 7590 | 12/01/2005 | EXAMINER | |
| HARRINGTON & SMITH, LLP 4 RESEARCH DRIVE SHELTON, CT 06484-6212 | | | HAMILTON, ISAAC N | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3724 | |
| DATE MAILED: 12/01/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,852

Applicant(s)

ASHFIELD, LEA ANTONY

Examiner

Isaac N. Hamilton

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-6, 10, 11, 14-16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Juratovac et al (D408,246), hereafter Juratovac. Juratovac discloses a battery operated chain saw with all of the elements described in the claim limitations. The figures clearly show a removable battery coupled to the motor in the figures. The battery and power pack is the oval shaped member shown in the figures. The electric motor lies within the vented motor housing shown in the figures adjacent to the oval-shaped battery. The center of gravity of Juratovac is located at least partially beneath and at least partially in front of the front handle as shown in the figures. The battery receiving area is on the back of the motor housing juxtaposed the oval-shaped battery and the motor housing as shown in the figures. The front-to-rear centerline is collinear with the rear handle and the battery is entirely spaced from the front-to-rear centerline as shown in figure 3. Juratovac inherently has an electrical coupling on the battery/power pack because every battery/power pack needs an electrical coupling in order to supply its power to a motor.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Juratovac in view of Gassen et al (5,016,355), hereafter Gassen. Juratovac discloses everything as noted above, but does not disclose a housing made of molded polymer members. However, Gassen teaches a housing made of molded polymer members in column 2, lines 11-21. It would have been obvious to provide a housing made of molded polymer member in Juratovac as taught by Gassen in order to make the chain saw lighter in weight. Note the guard in the figures in front of the handles.

5. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Juratovac in view of Anthony, III et al (5,213,913), hereafter Anthony. Juratovac discloses everything as noted above, but does not teach a mechanical latch. However, Anthony teaches mechanical latch 40. It would have been obvious to provide the power pack in Juratovac with a mechanical latch as taught by Anthony in order to further secure the power pack in place during cutting operations.

6. Regarding claims 7, 8, 17 and 18, Juratovac discloses all of the limitations as shown above, but does not disclose the orientation of the electrical coupling. It would have been obvious for Juratovac to locate the electrical coupling on a side other than a lateral side, and facing a forward direction in order to supply the power of the battery/power pack more directly to the motor in the motor housing juxtaposed to the battery. It has been held that shifting the location of parts is obvious to one of ordinary skill in the art if the operation of the device would not thereby be modified. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

Response to Arguments

7. Applicant's arguments filed 09/22/05 with respect to claims 6 and 10-20 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's arguments filed 02/25/05 on page 8 have been fully considered but they are not persuasive. Applicant asserts that because there is no written description in Juratovac, then Juratovac does not disclose that there is a removable battery in Juratovac. It is believed that a removable battery is disclosed in Juratovac in the figures. Particularly, figure 6 shows the oval-shaped battery inserted into the housing of the chain saw. This is evidenced by the dramatic sweeping arc that defines the interface between the chain saw housing and the battery. Moreover, there is no other place for the battery to be placed on the apparatus except for in the location of the oval shaped member. Applicant asserts that this oval shaped member is the motor housing and not the battery. It is believed that it cannot be the motor housing because the motor housing is shown adjacent the oval-shaped battery as evidenced by the vents. There is nothing that could convince the Examiner that Juratovac's oval element is not a battery nor battery pack, barring a signed affidavit from one of the inventors of Juratovac et al (D408,246).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

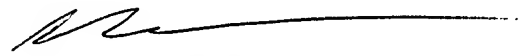
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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



IH

November 28, 2005



**KENNETH E. PETERSON
PRIMARY EXAMINER**